

Amendments to the Claims

Please cancel claim 40 without prejudice.

The following listing of claims will replace all prior versions and/or listings of claims in the application.

**Listing of Claims:**

1-14. (cancelled)

15. (currently amended): An intervertebral implant for a human spine, comprising:  
a cage element comprising a superior surface and an inferior surface, wherein the inferior surface of the cage element is configured to support a first vertebra of the human spine to inhibit movement of the first vertebra towards a second vertebra, and wherein the superior surface of the cage element comprises a first opening; an insert comprising a support surface for the second vertebra, wherein the support surface configured to, during use, supports at least a portion of the second vertebra above and away from the superior surface of the cage element and inhibits movement of the second vertebra towards the first vertebra, and wherein the insert, during use, is configured to be positioned at least partially in the cage element; and  
an expansion member configured to be that, during use, is inserted in the cage element through an opening in a side of the cage element to expand the intervertebral implant by elevating the insert to move a portion of the insert through the first opening in the superior surface of the cage element so that at least a portion of the support surface of the insert is raised relative to the inferior above and away from the superior surface of the cage to support at least a portion of the second vertebra above and away from the superior surface of the cage element.

16. (previously presented): The intervertebral implant of claim 15, wherein the intervertebral implant is configured such that the direction of movement of the expansion member is substantially perpendicular to the direction of movement of the insert.
17. (previously presented): The intervertebral implant of claim 15, wherein the expansion member is configured to be advanced between an interior surface of the cage element and the inferior surface of the insert.
18. (previously presented): The intervertebral implant of claim 15, wherein the support surface of the insert comprises osteoconductive mesh structure.
19. (previously presented): The intervertebral implant of claim 15, wherein an interior surface of the cage element comprises a raised portion configured to inhibit backout of the expansion member after expansion of the intervertebral implant.
20. (previously presented): The intervertebral implant of claim 15, wherein the expansion member comprises an angled portion configured to engage an angled portion of the insert to facilitate insertion of the expansion member in the cage element.
21. (currently amended): An intervertebral implant for a human spine, comprising:  
a cage element comprising a superior surface and an inferior surface, wherein the inferior surface of the cage element is configured to support a first vertebra of the human spine to inhibit movement of the first vertebra towards a second vertebra, and  
wherein the superior surface of the cage element comprises an opening;  
an insert comprising an inferior surface and a support surface for the second vertebra,  
wherein the support surface is configured to, during use, support the at least a portion of the second vertebra above and away from the superior surface of the cage element and inhibits movement of the second vertebra towards the first vertebra, wherein the insert, during use, is configured to be positioned in the cage element such that at least a portion of the inferior surface of the insert is inside below the superior surface of the cage element and at least a portion of the

support surface of the insert is outside above the superior surface of the cage element to support at least a portion of the second vertebra above and away from the superior surface of the cage element; and  
an expansion member configured to be that, during use, is inserted in the cage element through an opening in a side of the cage element to elevate at least a portion of the insert through the opening in the superior surface of the cage element so that the support surface of the insert is raised relative to the inferior above and away from the superior surface of the cage to support at least a portion of the second vertebra above and away from the superior surface of the cage element.

22. (previously presented): The intervertebral implant of claim 21, wherein the intervertebral implant is configured such that the direction of movement of the expansion member is substantially perpendicular to the direction of movement of the insert.

23. (previously presented): The intervertebral implant of claim 21, wherein the expansion member is configured to be advanced between an interior surface of the cage element and the inferior surface of the insert.

24. (previously presented): The intervertebral implant of claim 21, wherein the support surface of the insert comprises osteoconductive mesh structure.

25. (previously presented): The intervertebral implant of claim 21, wherein an interior surface of the cage element comprises a raised portion configured to inhibit backout of the expansion member after insertion of the expansion member.

26. (previously presented): The intervertebral implant of claim 21, wherein the expansion member comprises an angled portion configured to engage an angled portion of the insert to facilitate insertion of the expansion member in the cage element.

27. (currently amended): An intervertebral implant for a human spine, comprising:

a cage element with a superior surface and an inferior surface, wherein the inferior surface of the cage element comprises a first opening and the superior surface of the cage element comprises a second opening;

a first insert, wherein, during use, at least a portion of the first insert is configured to be positioned in the cage element proximate the first opening, and wherein the first insert comprises a support surface that, during use, supports at least a portion of a first vertebra below and away from the inferior surface of the cage element and inhibits movement of the first vertebra towards a second vertebra;

a second insert, wherein, during use, at least a portion of the second insert is configured to be positioned in the cage element proximate the second opening, and wherein the second insert comprises a support surface that, during use, supports at least a portion of a second vertebra above and away from the superior surface of the cage element and inhibits movement of the second vertebra towards the first vertebra;

and

an expansion member configured to be that, during use, is inserted in a third opening in the cage element to raise a lower the support surface of the first insert relative to below and away from the inferior surface of the cage element, wherein the support surface of the first insert is configured to couple to a first vertebra to support at least a portion of the first vertebra below and away from the inferior surface of the cage element and inhibit movement of the first vertebra towards a second vertebra, and

wherein the expansion member when inserted in the third opening is configured to raises a the support surface of the second insert relative to above and away from the superior surface of the cage element, wherein the support surface of the second insert is configured to couple to the second vertebra to support at least a portion of the second vertebra above and away from the superior surface of the cage element and inhibit movement of the second vertebra towards the first vertebra.

28. (previously presented): The intervertebral implant of claim 27, wherein the intervertebral implant is configured such that the direction of movement of the expansion member is substantially perpendicular to the direction of movement of the first insert and the second insert.

29. (previously presented): The intervertebral implant of claim 27, wherein the expansion member is configured to be advanced between a superior surface of the first insert and an inferior surface of the second insert.
30. (previously presented): The intervertebral implant of claim 27, wherein the support surface of the first insert comprises osteoconductive mesh structure.
31. (previously presented): The intervertebral implant of claim 27, wherein the support surface of the second insert comprises osteoconductive mesh structure.
32. (previously presented): The intervertebral implant of claim 27, wherein an interior surface of the cage element comprises a raised portion configured to inhibit backout of the expansion member after insertion of the expansion member.
33. (previously presented): The intervertebral implant of claim 27, wherein expanding the intervertebral implant comprises increasing a height of the intervertebral implant.
34. (previously presented): The intervertebral implant of claim 27, wherein the expansion member comprises at least one angled portion configured to engage an angled portion of the first insert to facilitate insertion of the expansion member in the cage element.
35. (previously presented): The intervertebral implant of claim 15, wherein the support surface of the insert comprises at least a majority of a surface of the intervertebral implant that is configured to support the second vertebra.
36. (previously presented): The intervertebral implant of claim 21, wherein the support surface of the insert comprises at least a majority of a surface of the intervertebral implant that is configured to support the second vertebra.

37. (currently amended): The intervertebral implant of claim 27, wherein the support surface of the first insert comprises at least a majority of a surface of the intervertebral implant that is configured to support the first vertebrae comprises.

38. (currently amended): The intervertebral implant of claim 27, wherein the support surface of the second insert comprises at least a majority of a surface of the intervertebral implant that is configured to support the second vertebrae comprises.

39. (currently amended): An intervertebral implant for a human spine, comprising:  
a first member comprising a first inferior surface and a first superior surface, where the first superior surface comprises a substantially planar surface configured to contact and support a first vertebrae of a human spine;  
a second member comprising a second inferior surface and a second superior surface, where the second inferior surface comprises a substantially planar surface configured to contact and support a second vertebrae of a human spine;  
a cage comprising a first opening in a superior surface of the cage and a second opening in an inferior surface of the cage, wherein, during use, the first member is at least partially disposed in the first opening and the second member is disposed at least partially in the second opening; and  
an expansion element configured to be that, during use, is inserted between the first inferior surface of the first member and the second superior surface of the second member after insertion of the first member and the second member in the human spine, wherein insertion of the expansion member is configured to expand the first and second members relative to one another to increase a separation distance between the first superior surface of the first member and the second inferior surface of the second member, wherein the first superior surface is expanded above the superior surface of the cage and the second inferior surface is expanded below the inferior surface of the cage, such that the distance between the first superior surface and the second inferior surface is greater than the distance between the superior surface and the inferior surface of the cage, and wherein the first superior surface supports at least a portion of the first vertebra above the

superior surface of the cage and the second inferior surface supports at least a portion of the second vertebra below the inferior surface of the cage.

40. (cancelled).

41. (currently amended): The intervertebral implant of claim 15, wherein the support surface comprises a substantially planar surface that supports at least a portion of the second vertebra above and away from the superior surface of the cage element and inhibits movement of the second vertebra towards the first vertebra during use configured to contact the second vertebra.

42. (currently amended): The intervertebral implant of claim 21, wherein the support surface comprises a substantially planar surface that supports at least a portion of the second vertebra above and away from the superior surface of the cage element and inhibits movement of the second vertebra towards the first vertebra during use configured to contact the second vertebra.

43. (currently amended): The intervertebral implant of claim 27, wherein the support surface of the first insert comprises a substantially planar surface that supports at least a portion of the first vertebra above and away from the inferior surface of the cage element and inhibits movement of the second vertebra towards the first vertebra during use configured to contact the first vertebra, and wherein the support surface of the second insert comprises a substantially planar surface that supports at least a portion of the second vertebra above and away from the superior surface of the cage element and inhibits movement of the second vertebra towards the first vertebra during use configured to contact the second vertebra.

44. (new): The intervertebral implant of claim 15, wherein the support surface of the insert comprises a substantially planar surface of sufficient cross-sectional area to support the second vertebra above and away from the superior surface of the cage element during use.

45. (new): The intervertebral implant of claim 15, wherein, during use, the support surface of the insert supports the second vertebra above and away from the superior surface of the cage element such that the second vertebra does not contact the superior surface of the cage element.

46. (new): The intervertebral implant of claim 21, wherein the support surface of the insert comprises a substantially planar surface of sufficient cross-sectional area to support the second vertebra above and away from the superior surface of the cage element during use.
47. (new): The intervertebral implant of claim 21, wherein, during use, the support surface of the insert supports the second vertebra above and away from the superior surface of the cage element such that the second vertebra does not contact the superior surface of the cage element.
48. (new): The intervertebral implant of claim 27, wherein the support surface of the first insert comprises a substantially planar surface of sufficient cross-sectional area to support the second vertebra below and away from the inferior surface of the cage element during use, and wherein the support surface of the second insert comprises a substantially planar surface of sufficient cross-sectional area to support the second vertebra above and away from the superior surface of the cage element during use.
49. (new): The intervertebral implant of claim 27, wherein, during use, the support surface of the first insert supports at least a portion of a first vertebra below and away from the inferior surface of the cage element such that the first vertebra does not contact the inferior surface of the cage element, and the support surface of the second insert supports at least a portion of a second vertebra above and away from the superior surface of the cage element such that the second vertebra does not contact the superior surface of the cage element.
50. (new): An intervertebral implant, comprising:  
a cage element implanted between a first vertebra and a second vertebra during use,  
wherein the cage element comprises a first surface facing the first vertebra and a second surface facing the second vertebra when implanted; and  
a means for supporting the first vertebra in a position away from the first surface of the cage element.